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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
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ART UNIT	**PAPER NUMBER**
2623	

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12/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/026,704	MURPHY ET AL.	
	Examiner	Art Unit	
	Michael Van Handel	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/12/2007 has been entered.

Response to Amendment

1. This action is responsive to an Amendment filed 10/12/2007. Claims **19-31** are pending. Claims **19, 20, 24, 30** are amended. Claims **1-18** are canceled.

Response to Arguments

1. Applicant's arguments regarding claims **19** and **30**, filed 10/12/2007, have been fully considered, but they are not persuasive.

Regarding claims **19** and **30**, the applicant argues that the combination of DeWeese et al., Mimura et al., and August et al. does not teach a second output connected to an input of a second set top box using a back channel communications path, the back channel communications path using an in-home wiring system that is different from the first input. The examiner respectfully disagrees. As noted in the Office Action mailed 7/13/2007, DeWeese et al. discloses a television chat system 10 as shown in Figure 1A. Communication paths 24 have sufficient bandwidth to

allow television distribution facility 16 to distribute scheduled television programming, pay programming, real-time communications, chat requests and other video and audio information to user television equipment 20 in addition to non-video program guide information and communications. The real-time communications supported by communication paths 24 may be text-based or, if more bandwidth is available, may be audio or video communications (p. 3, paragraph 55). DeWeese et al. also discloses that the communications paths 24 have two-way digital channels for supporting real-time communications (p. 3, paragraphs 55-56). Real-time communications and chat requests are distributed along communication paths from one user television equipment device 20 associated with a given television distribution facility 16 to another user television equipment device 20 associated with that facility using a chat server located at the facility (p. 5, paragraph 71 & Fig. 2A). DeWeese et al. further discloses that each of the communications paths include a number of traditional analog television channels, as well as two-way digital channels that support the two-way real-time communications between set-top boxes (p. 3, paragraph 56). Since the real-time communications are sent on a logically separable path over the coaxial cable and further since multiple set top boxes are connected to the set top box by way of television distribution facilities and chat servers (Figs. 1A, 2A, 2B, 3, 10), the examiner interprets this as "a second output connected to an input of a second set top box using a back channel communications path," as currently claimed. Furthermore, DeWeese et al. discloses that the set-top box may include a DOCSIS modem for use in the two-way communication to and from a server or television distribution facility (p. 4, paragraph 59). The examiner notes that the output of this modem is also "a second output connected to an input of a second set top box using a back channel communications path," as currently claimed.

Further regarding claims **19** and **30**, the applicant argues that the combination of DeWeese et al., Mimura et al., and August et al. does not teach that the back channel communications path uses an in-home wiring system that is different from the first input. The examiner respectfully disagrees. As noted above, DeWeese et al. discloses using a separate data channel for real-time communications between set-top boxes. DeWeese et al. further discloses the use of a DOCSIS modem supporting the real-time communications. The examiner interprets this to be "an in-home wiring *system* that is different from the first input (italicized for emphasis)," as currently claimed. This is consistent with Applicant's specification, which states that the term back channel generally refers to a communication path that is different than the programming content that is delivered by wiring system 130 and states that wiring system 130 can be used for the back channel (p. 6, paragraph 26). Applicant's specification also discloses one F-type connector 206 adapted to receive content from wiring system 130 (p. 14, paragraph 55). Applicant's specification further discloses that both first and second set top boxes (STB) are adapted to receive broadcast content and two way communications over in-home wiring system and Figure 1 depicts only one transmission line connecting the set top boxes within the home together and to external line 110 (p. 2, paragraph 8 & Fig. 1). The examiner further notes that an "output" generally refers to channel specific data (see definitions of "channel in The Authoritative Dictionary of IEEE Standards Terms). As such, the examiner maintains that the combination of DeWeese et al., Mimura et al., and August et al. meets the limitation of "the back channel communications path using an in-home wiring system that is different from the first input," as currently claimed. The examiner further notes that the real-time communications of DeWeese et al. are distributed by way of television distribution servers and chat servers to other

homes coaxial cable networks (Figs. 1A, 2A, 2B, 3, 10). This also meets the limitation of " the back channel communications path using an in-home wiring system that is different from the first input," as currently claimed.

Still further regarding claims **19** and **30**, the applicant argues that DeWeese et al. teaches away and cannot support the examiner's *prima facie* case. The applicant specifically argues that any combination involving DeWeese et al. requires an impermissible change to DeWeese et al.'s principle of operation. The examiner respectfully disagrees. As noted above, DeWeese et al. meets the limitation of "a second output connected to an input of a second set top box using a back channel communications path, the back channel communications path using an in-home wiring system that is different from the first input." Furthermore, DeWeese et al. notes that the system "*may* eliminate the need for additional communications paths separate from the paths that carry television signal broadcast channels for the transmission of chat communications." In fact, DeWeese et al. discloses the use of a second communications path between user televisions (p. 3, paragraph 56).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **19-23, 25-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWeese et al. in view of Mimura et al. and further in view of August et al.

Referring to claims **19**, **22**, **29**, and **30**, DeWeese et al. discloses a set top box integrated with, or communicating with, a television, the set top box comprising:

- a first input receiving broadcasted content from a service provider (p. 3, paragraph 56);
- a first output adapted to be received by the television, the first output sending the broadcasted content to the television (p. 4, paragraph 65 & Fig. 1A);
- a second input to receive message information from a user (p. 5, paragraph 67; p. 9, paragraphs 101, 105; & Figs. 1B, 10);
- a second output connected to an input of a second set top box using a back channel communications path (p. 3, paragraph 57 & p. 4, paragraph 59), the back channel communications path using an in-home wiring system that is different from the first input (p. 3, paragraphs 55, 56; p. 4, paragraph 59; p. 9, paragraph 104 & Figs. 1A, 2A, 2B, 3, 10); the second output sending the message information to the second set top box, thus establishing a two-way intercom system with the second set top box (p. 5, paragraphs 71-73); and
- a back channel communications path that is different from the first input (p. 3, paragraph 57 & p. 9, paragraph 104).

DeWeese et al. also discloses receiving television audio channels (p. 3, paragraph 56; p. 4, paragraph 64; & p. 9, paragraph 102). DeWeese et al. further discloses transmitting video chat images with audio as real-time communications by the chat system (p. 10, paragraphs 107, 111 & fig. 11). DeWeese et al. still further discloses that the video chat images and audio can be shown at the same time as a television program (p. 11, paragraphs 119, 120 & Figs. 16, 17).

DeWeese et al. does not disclose that, when the message information has audible content, the message information is processed for another audio channel and a volume of the broadcasted content is reduced below a volume of the message information being played. Mimura et al. discloses a television audio/visual (A/V) conferencing system with a database 12. The AV database stores combinations of video signal characteristics and corresponding audio signal processing parameters, such as a volume of sound to be reproduced and a balance between sounds reproduced by loudspeakers (col. 9, l. 10-35). The processing parameters are read from the database and supplied to an audio signal processor to control the sound field to produce an acoustic space suitable for an image, by changing the sound volume and right and left balance to localize sounds based on the locality of displayed images (col. 6, l. 13-23; col. 20, l. 22-62; & Figs. 32A-33). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the video and audio chat system of DeWeese et al. to include changing the sound volume and right and left balance of the received audio messages to be output from different speakers, such as that taught by Mimura et al. in order to provide a real-time TV conferencing system with improved reality (Mimura et al. col. 3, l. 36-45). The combination of DeWeese et al. and Mimura et al. does not teach reducing a volume of the audio signal below a volume of the received audible message information. August et al. discloses a set-top box 30 for receiving A/V and telephone signals. When a television viewer receives a telephone call over the set-top box, the audio signal emanating from the video receiving device can be automatically muted or reduced to a selectable level (col. 2, l. 46-64). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of DeWeese et al. and Mimura et al. to include reducing the volume of a television

audio signal upon receiving an audio message, such as that taught by August et al. in order to provide the automatic interaction of desirable activities (August et al. col. 2, l. 56-68).

Referring to claim **20**, the combination of DeWeese et al., Mimura et al., and August et al. teaches the set top box according to claim 19, wherein the message information comprises text information and formatting information, the formatting information being preset and fixed such that the user is unable to change the formatting information, the formatting information causing a reduction in a size of a displayed image to create a blank margin below the displayed image and another blank margin beside the displayed image, the formatting information causing the message to be displayed in the blank margin below the displayed image and in the another blank margin beside the displayed image (p. 11, paragraph 119 & Fig. 16).

Referring to claim **21**, the combination of DeWeese et al., Mimura et al., and August et al. teaches the set top box according to claim 30, wherein the audible message information comprises at least one of video information, text information, and a pre-formatted message (the examiner notes that chat sessions can have text, audio, video, or a combination, as well as additional appended information)(DeWeese et al. p. 3, paragraph 55; p. 4, paragraph 64; & p. 14, paragraph 141).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **23** and **25**, the combination of DeWeese et al., Mimura et al., and August et al. teaches a set top box according to claims 30 and 19, respectively, wherein the memory stores pre-made voice messages (the examiner notes that chat sessions can be stored and viewed at a later time (DeWeese et al. p. 4, paragraph 64).

Referring to claim **26**, the combination of DeWeese et al., Mimura et al., and August et al. teaches a set top box according to claim 19, further comprising a message waiting indicator (the examiner notes that when a message is received it appears in region 206)(DeWeese et al. p. 8, paragraph 93 & Fig. 9).

Referring to claims **27** and **31**, the combination of DeWeese et al., Mimura et al., and August et al. teaches a set top box according to claims 19 and 30, respectively, further comprising another input adapted to receive information from a keyboard (DeWeese et al. p. 5, paragraph 67 & Fig. 1B).

Referring to claim **28**, the combination of DeWeese et al., Mimura et al., and August et al. teaches a set top box according to claim 19, wherein the first input also receives a video signal (DeWeese et al. p. 3, paragraph 56) and the set top box modifies the video signal to display a text message (DeWeese et al. p. 8, paragraph 93 & Fig. 9).

3. Claim **24** is rejected under 35 U.S.C. 103(a) as being unpatentable over DeWeese et al. in view of Mimura et al., further in view of August et al., and still further in view of Cowe et al.

Referring to claim **24**, the combination of DeWeese et al., Mimura et al., and August et al. teaches the set top box according to claim 19. The combination of DeWeese et al., Mimura et al., and August et al. does not specifically teach formatting information that, for urgent messages, replaces the displayed image with a blank background and displays the message information. Cowe et al. discloses a multi-channel audio messaging system for cable television for delivering public emergency alert information to members of the cable television audience (Abstract & col. 5, l. 47-53). Cowe et al. further discloses overlaying the video on every channel

with a blank screen overlay and providing a full-screen text message to accompany the audio message (col. 11, l. 27-31). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the messaging system combination of DeWeese et al., Mimura et al., and August et al. to include overlaying video on channels with a blank screen overlay and a full-screen text message in the case of an emergency, such as that taught by Cowe et al. in order to provide an economical cable television messaging system that can override or substitute a video message on a multi-channel cable television system suitable for delivering public emergency alert information to members of the cable television audience (Cowe et al. col. 5, l. 47-53).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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